IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION.

CIVIL REVISION APPLICATION NO. 194 OF 2004.

Smt.Taimura Gulam Ahmed Kuwari & Ors. .... Petitioners.

V/s

Shri Abdul Sattar Gulam Mustafa Kuwari & Ors.... ... Respondents.

Mrs.P.U.Badadare for Mr.B.G.Tangsali for the petitioner.

CORAM: R.M.S. KHANDEPARKAR, J.

16-12-2004

PC:

Heard the learned advocate for the petitioners.

Petitioners challenge the order dated 29.9.2004 passed in Regular Civil Suit No.266 of 1999 by Civil Judge, Junior Division, +. By the impugned order the trial Court has dismissed the application of the petitioners whereby the petitioners had requested the Court to try the issue in relation to the value of the suit and jurisdiction of the suit on that count, to be tried as preliminary issue. Undisputedly the issue in relation to the suit valuation will have to be decided based on evidence pertaining to the market value of the subject matter of the dispute and for that purpose parties are entitled to place before the Court sufficient material in support of their rival contentions. That being so, no fault can be found with the impugned order rejecting the application filed by the

petitioners requesting the Court to try the said issue as preliminary issue. There being no jurisdictional error committed by the Court below for passing impugned order no interference is called for therein in exercise of powers under section 115 of Code of Civil Procedure. Hence the petition is rejected.